

November 17, 2009

CLERK, U.S. BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA

0002225533

ERIN LANEY (CA SBN 259863)  
CASPER RANKIN (CA SBN 249196)  
PITE DUNCAN, LLP  
4375 Jutland Drive, Suite 200  
P.O. Box 17933  
San Diego, CA 92177-0933  
Telephone: (858)750-7600  
Facsimile: (619) 590-1385

Attorneys for WELLS FARGO BANK, NATIONAL ASSOCIATION AS TRUSTEE FOR  
THE CERTIFICATEHOLDERS OF STRUCTURED ASSET MORTGAGE  
INVESTMENTS II INC., GREENPOINT MTA TRUST 2006-AR1,  
MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2006-AR1

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA

In re

TOMIYA OMESHA GAINES,

Debtor(s).

Case No. 09-36201

Chapter 7

D.C. No. PD-1

ORDER GRANTING MOTION FOR  
RELIEF FROM AUTOMATIC STAY

WELLS FARGO BANK, NATIONAL  
ASSOCIATION AS TRUSTEE FOR THE  
CERTIFICATEHOLDERS OF  
STRUCTURED ASSET MORTGAGE  
INVESTMENTS II  
INC., GREENPOINT MTA TRUST 2006-  
AR1, MORTGAGE PASS-THROUGH  
CERTIFICATES, SERIES 2006-AR1.

Movant,

vs.

TOMIYA OMESHA GAINES, Debtor(s);  
and GARY FARRAR, Chapter 7 Trustee,

Respondents.

LBR 4001-1 and 9014-1(f)(1)

DATE: November 9, 2009

TIME: 9:00 a.m.

CTRM: 28

501 "I" Street  
Sacramento, CA 95814

RECEIVED

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EASTERN DISTRICT OF CALIFORNIA  
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1 The above-captioned matter came on for hearing on November 9, 2009, in the Courtroom  
2 of the Honorable Michael S. McManus, upon the Motion of Wells Fargo Bank, National  
3 Association as Trustee for the Certificateholders of Structured Asset Mortgage Investments II  
4 Inc., GreenPoint MTA Trust 2006-AR1, Mortgage Pass-Through Certificates, Series 2006-AR1  
5 ("Movant"), for relief from the automatic stay of 11 U.S.C. § 362, to enforce its interest in the  
6 property of Tomiya Omesha Gaines ("Debtor") commonly known as 10869 Tank House Drive,  
7 Stockton, California 95209 (the "Real Property"), which is legally described as follows:

8 SEE LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT A  
9 AND MADE A PART HEREOF.

10 Based on the arguments of counsel, and good cause appearing therefor,

11 IT IS HEREBY ORDERED:

12 1) The automatic stay of 11 U.S.C. § 362, is hereby terminated as it applies to the  
13 enforcement by Movant of all of its rights in the Real Property under Note and Deed of Trust;

14 2) Movant is authorized to foreclose its security interest in the Real Property under  
15 the terms of the Note and Deed of Trust, and pursuant to applicable state law;

16 3) The 10-day stay provided by Bankruptcy Rule 4001 (a)(3) is not waived but shall  
17 run concurrently with the 7-day period specified in California Civil Code § 2924g(d);

18 4) Upon foreclosure, in the event Debtor fails to vacate the Real Property, Movant  
19 may proceed in State Court for unlawful detainer pursuant to applicable state law;

20 5) Movant may offer and provide Debtor with information regarding a potential  
21 Forbearance Agreement, Loan Modification, Refinance Agreement, or other Loan Workout/Loss  
22 Mitigation Agreement, and may enter into such agreement with Debtor. However, Movant may  
23 not enforce, or threaten to enforce, any personal liability against Debtor if Debtor's personal  
24 liability is discharged in this bankruptcy case;

25 /././

26 /././


27 /././

28 /././

1           6)     The court determines that this bankruptcy proceeding has been finalized for  
2 purpose of Cal. Civil Code § 2923.5 and the enforcement of the note and deed of trust described  
3 in the motion against the subject real property. Further, upon entry of order granting relief from  
4 the automatic stay, the movant and its successors, assigns, principals, and agents shall comply  
5 with Cal. Civil Code § 2923.52 et seq., the California Foreclosure Prevention Act, to the extent it  
6 is otherwise applicable.

7  
8     Dated: November 17, 2009

By the Court

9  
10             
11           Michael S. McManus  
12           United States Bankruptcy Judge  
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LEGAL DESCRIPTION

THAT CERTAIN REAL PROPERTY SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF SAN JOAQUIN, DESCRIBED AS FOLLOWS:

LOT 45 AS SHOWN ON THAT CERTAIN MAP ENTITLED, TRACT NO. 3295, WINDMILL PARK, UNIT NO. 1, FILED FOR RECORD MAY 6, 2004 IN VOL. 39 OF MAPS AND PLATS, PAGE 5, SAN JOAQUIN COUNTY RECORDS.

A CERTIFICATE OF CORRECTION RECORDED JUNE 17, 2004 AS INSTRUMENT NO. 2004-133298, SAN JOAQUIN COUNTY RECORDS.

A CERTIFICATE OF CORRECTION RECORDED MAY 20, 2005 AS INSTRUMENT NO. 2005-122720, SAN JOAQUIN COUNTY RECORDS.

TOGETHER WITH A TEMPORARY ACCESS EASEMENT APPURTENANT TO EACH LOT OVER AND ACROSS STREETS KNOWN AS WINDMILL PARK DRIVE, WINDJAMMER DRIVE, WINDMILL COVE DRIVE, TANK HOUSE DRIVE AND YARDLEY DRIVE, AS SHOWN ON THE SUBDIVISION MAP FOR TRACT NO. 3292, RECORDED MAY 6, 2004 IN VOL. 39 OF MAPS AND PLATS, PAGE 5, SAN JOAQUIN COUNTY RECORDS, TO PROVIDE ACCESS TO WHISTLER WAY. THE TEMPORARY ACCESS EASEMENT SHALL AUTOMATICALLY TERMINATE AS TO EACH LOT WHEN THE STREETS NECESSARY TO PROVIDE SUCH LOT PERMANENT ACCESS TO WHISTLER WAY HAVE BEEN CONVEYED TO THE HOMEOWNERS' ASSOCIATION.

FIRST AMERICAN TITLE

EXHIBIT A